



# PROPOSED RULE MAKING

**CR-102 (June 2004)**

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

**Agency:** Department of Ecology AO #10-04

- ☒ **Preproposal Statement of Inquiry was filed as WSR 10-09-102 ; or**  
☐ **Expedited Rule Making--Proposed notice was filed as WSR \_\_\_\_\_; or**  
☐ **Proposal is exempt under RCW 34.05.310(4).**

- ☒ **Original Notice**  
☐ **Supplemental Notice to WSR \_\_\_\_\_**  
☐ **Continuance of WSR \_\_\_\_\_**

**Title of rule and other identifying information:** Revision of Chapter 173-455 WAC, Air Quality Fee Rule. The amendments will change the fee schedule for permitting activities covered under the federal and state new source review program. These fees by law must support the cost of issuing a permit. The legislature authorized these fee increases and cut our general fund subsidy by the amount Ecology estimated the fee increases will generate. This action is revenue neutral. Ecology's Air Quality Program will not expand its program nor hire additional staff because of the increased fees. We are also making a few housekeeping changes.

**Open house and hearing location(s):**

**Lacey:** Dept. of Ecology, 300 Desmond Dr  
 Date: April 5, 2011 Open house: 6 pm; Hearing: 7 pm

**Ellensburg:** Hal Holmes Center, 209 N. Ruby St  
 Date: April 6, 2011 Open house: 5:30 pm; Hearing: 6:30 pm

**Spokane:** Dept. of Ecology, 4601 N. Monroe St  
 Date: April 7, 2011 Open house: 5:30 pm; Hearing: 6:30 pm

**Submit written comments to:**

**Name:** Elena Guilfoil, Air Quality Fee Rule Comments  
**Address:** Department of Ecology Air Quality Program  
 PO Box 47600  
 Olympia, WA 98504-7600  
**e-mail** AQComments@ecy.wa.gov  
**fax** (360) 407-7534 **by (date)** April 15, 2011

**Assistance for persons with disabilities:** Contact Tami Dahlgren at (360) 407-6830 by April 1, 2011. Persons with hearing loss, call 711 for Washington Relay Service. Persons with a speech disability, call 877-833-6341.

**Date of intended adoption:** May 23, 2011  
 (Note: This is NOT the effective date)

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The purpose of the proposal is to update permitting fees in Chapter 173-455 WAC to make Washington's new source review process more financially self-sufficient. The proposal increases fees to cover the costs of processing a new source review permit, as authorized by the legislature, and provides incentives to streamline permitting. The rule proposal also:

- changes the name of a reseller certificate to a reseller permit to be consistent with the Department of Revenue (WAC 173-455-060); and
- updates portable and temporary portable source permit fee provisions for consistency with 2011 revisions to Chapter 173-400 WAC (WAC 173-455-140).

**Reasons supporting proposal:** The revenue from fees under our pre-construction permitting program does not cover the cost of operating the program. The 2009 legislature authorized these fee increases and cut our general fund subsidy, effective July 1, 2011, by the amount Ecology estimated the fee increases will generate. The 2011 legislature reauthorized the fee increases with the passage of Chapter 5, Laws of 2011 on February 18, 2011. This action is revenue neutral; Ecology's Air Quality Program will not expand its program nor hire additional staff because of the increased fees. We need the new fee structure in place by July 1, 2011 to make up the general fund reduction. Ecology evaluated our fee structure to determine the most appropriate method for assessing fees. If fees are not increased, there will be considerable delays in permitting approval due to lack of agency resources. With this fee structure, Ecology attempts to maximize taxpayer dollars by making the permit applicant cover the full costs of issuing the permit. The more complete the information a business provides in its application, the more efficient Ecology's review will be, resulting in a lower total fee for that permit.

**Statutory authority for adoption:** RCW 70.94.152 and Section 301(28), Chapter 5, Laws of 2011 (ESHB 1086). RCW 43.135.055 requires a majority vote of the legislature to raise or add fees. Legislative authority granted in 2009 to adopt fee changes became invalid when the voters passed Initiative 1053 in November 2010. On February 18, 2011, the legislature reauthorized Ecology to increase fees.

**Statute being implemented:** RCW 70.94.152

**Is rule necessary because of a:**

- Federal Law? ☐ Yes ☒ No  
 Federal Court Decision? ☐ Yes ☒ No  
 State Court Decision? ☐ Yes ☒ No  
 If yes, CITATION:

**DATE** 3/1/11

**NAME** (type or print) Polly Zehm

**SIGNATURE**

*Polly Zehm*

**TITLE**

Deputy Director, Department of Ecology

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
 STATE OF WASHINGTON  
 FILED

**DATE:** March 01, 2011

**TIME:** 1:56 PM

**WSR 11-06-057**

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:**

This rule making contains references to Chapter 173-400 WAC. Chapter 173-400 WAC is also being updated through rule making (AO # 09-01). This proposed fee rule references rule language and the numbering system in the revisions to Chapter 173-400 WAC. Ecology will coordinate both rule makings to prevent inconsistencies between the final rules.

For more information about the Chapter 173-400 WAC rule making see: <http://www.ecy.wa.gov/laws-rules/wac173400/0901.html>.

**Name of proponent:** (person or organization) Department of Ecology Air Quality Program☐ Private ☐ Public ☒ Governmental**Name of agency personnel responsible for:**

Name	Office	Location	Phone
Drafting	Elena Guilfoil, Air Quality Program	Olympia	(360) 407-6855
Implementation & Enforcement (both unless noted)			
Garin Schrieve – Industrial Section, Waste 2 Resources		Olympia	(360) 407-6868
Doug Hendrickson – Nuclear Waste Program		Richland	(509) 531-0727
Sue Billings – Central Regional Office		Yakima	(509) 575-2486
Eastern Regional Office: Greg Flibbert – implementation; Karen Wood – enforcement		Spokane	(509) 329-3469
David Ogulei – implementation of PSD program and air toxics review		Olympia	(360) 407-6803
Enforcement of PSD permit or air toxics review lies with permitting agency with jurisdiction over applicant			
Benton Clean Air Agency – Robin Priddy		Kennewick	(509) 783-1304
Northwest Clean Air Agency – Mark Buford		Mount Vernon	(360) 428-1617
Olympic Region Clean Air Agency – Mark Goodin		Olympia	1-800-422-5623
Puget Sound Clean Air Agency – Steve Van Slyke		Seattle	1-800-552-3565
Southwest Clean Air Agency – Paul Mairose		Vancouver	1-800-633-0709
Spokane Regional Clean Air Agency – Ron Edgar		Spokane	(509) 477-4727
Ecology offices and staff noted above			

**Has a small business economic impact statement been prepared under chapter 19.85 RCW?**☒ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name: Kasia Patora  
Address: Economics and Regulatory Research  
Department of Ecology  
PO Box 47600  
Lacey, WA 98504-7600  
phone (360) 407- 6184  
fax (360) 407-6989  
e-mail [kasia.patora@ecy.wa.gov](mailto:kasia.patora@ecy.wa.gov)

☐ No. Explain why no statement was prepared.**Is a cost-benefit analysis required under RCW 34.05.328?**☒ Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name: Kasia Patora  
Address: Economics and Regulatory Research  
Department of Ecology  
PO Box 47600  
Lacey, WA 98504-7600  
phone (360) 407- 6184  
fax (360) 407-6989  
e-mail [kasia.patora@ecy.wa.gov](mailto:kasia.patora@ecy.wa.gov)

☐ No: Please explain: